

## **REMARKS**

This paper is responsive to the Non-Final Office Action mailed May 1, 2006. All of the claims have been rejected by the Examiner. Claims 1, 7, 9, 12, 15, 17, 19 and 21 have been amended and claims 6, 10, 18, 20 and 25-29 have been cancelled. It is believed that in view of the remarks presented below that all of the pending claims are in condition for allowance. A notification of allowance is therefore respectfully requested.

Support for the amendments exists generally throughout the specification, but in particular, is found in FIGS. 3-4 and paragraph [0029].

### **Claims Rejections – 35 U.S.C. § 112**

Claims 7, 12 and 17 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicant regards as the invention. The Applicants have amended the claims in the manner suggested by the Examiner in the rejection. The Applicants would like to thank the Examiner for the helpful suggestions for responding to this rejection.

Claim 10 was furthermore rejected for the same reason because the limitation to “the front portion” did not have sufficient antecedent basis. Claim 10 has been cancelled.

### **Independent Claims 1, 15, 9 and 19 Are Not Anticipated by Rose**

Claims 1-3, 8-11, 13, 15, 16, 19 and 22, have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,533,394 to Bernard R. Rose et al. (“Rose”). Rose, however, does not teach, disclose or suggest all of the recited elements of independent claims 1, 9, 15 and 19. Claims 1, 9, 15 and 19 also do not read upon Rose. Rose therefore does not anticipate the subject matter claimed by independent claims 1, 9, 15 and 19.

Rose teaches a gas fireplace structure that includes a multispeed motor “to provide forces to exhaust combustion products” from the combustion chamber “through other than the room’s ceiling.” Abstract. The fireplace includes a firebox 30 with baffles 76, 78 that capture hot combustion products “between the two baffles” such that the combustion products “are exhausted by the rotating blower wheel 48.” Col. 3, line 68 – col. 4, line 3. The blower wheel 48 is contained in a housing compartment 46 between the combustion chamber and a top side of

the firebox. Col. 3, lines 16-20. The blower wheel 48 rotates to “forcibly exhaust the hot combustion products” and also to turn fan 54, which forces air from the top air chamber to the air duct 38 to be heated and returned to the room. Col. 4, lines 4-13. As illustrated in FIG. 2, the baffles are positioned to capture combustion products at the rear of the combustion chamber and form a wide contiguous opening across the width of the combustion chamber.

In contrast, amended claim 1 recites a heating source with a combustion chamber and a venting assembly that includes a “first panel defining a top panel of the combustion chamber enclosure and including an aperture aligned with the front portion of the combustion chamber.” Aligning the aperture with the front part of the combustion chamber reduces the amount of combustion products that escapes out of the open front of the fireplace. In addition, the aperture is “formed of a grid of openings” in order to “reduce the turbulent flow of air in the combustion chamber.” Claim 1 further requires a “device providing a vacuum pressure at the exhaust opening.”

Rose does not teach, disclose or suggest a panel that is part of the venting assembly and that forms a panel of the combustion chamber or an aperture aligned with the front portion of the combustion chamber as claimed. Furthermore, Rose does not teach, disclose or suggest an opening formed in a grid pattern or a device providing a vacuum pressure at the exhaust opening. Rose, rather, only teaches a wide opening near the rear of the combustion chamber and a fan placed in the housing compartment.

Similarly, amended claims 9 and 15 recite a venting assembly that includes a “first panel configured as a panel of the combustion chamber enclosure and having an opening aligned with the front portion of the combustion chamber, the opening formed in a grid pattern.” Claim 9 further recites a second panel that includes “a first and second side opening adjacent to a first and second side and along a front portion of the second panel, the first and second side opening also in fluid communication with the first panel opening.” Claim 15 further includes a second and third panel and a “device configured to provide a vacuum force at the vent pipe opening.”

Rose does not teach, disclose or suggest a panel that is part of the venting assembly and that forms a panel of the combustion chamber or an aperture aligned with the front portion of the combustion chamber as claimed. Furthermore, Rose does not teach, disclose or suggest an opening formed in a grid pattern or a device providing a vacuum pressure at the exhaust opening.

Rose, rather, only teaches a wide opening near the rear of the combustion chamber and fan placed in the housing compartment.

Amended claim 19 recites a “method of removing combustion gases from a combustion chamber enclosure” that includes “forming a first opening in the top panel aligned with the front portion of the combustion chamber, the opening formed in a grid pattern.” Claim 19 further recites positioning a housing member and a middle panel to form first and second vent chambers and then “applying a suction force at the exhaust opening to draw substantially all combustion gases produced in the combustion chamber” out the exhaust opening.

Rose does not teach, disclose or suggest a method of removing combustion gases from a combustion chamber that includes positioning a housing member and a middle panel to form first and second vent chambers and then “applying a suction force.”

Rose therefore does not teach, disclose or suggest all of the recited elements of claims 1, 9, 15 and 19. Moreover, claims 1, 9, 15 and 19 do not read upon Rose. Rose therefore cannot anticipate claims 1, 9, 15 and 19 and these claims are allowable over Rose.

Since dependent claims 2-3, 8, 10-11, 13, 16, 18 and 22 depend directly or indirectly from one of claims 1, 9, 15 and 19, these dependent claims are allowable for at least the reasons presented above.

#### **Further Rejections**

Claims 25-26 were rejected by under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,169,301 to Donald E. Donnelly et al. (“Donnelly”). Claims 25-26, however, have been cancelled and therefore this rejection is moot.

Claims 7, 12, 17 and 21 were rejected under 35 U.S.C. § 103(a) as being obvious over Rose in view of U.S. Patent No. 485,772 to Benjamin W. Peel and claims 4, 5, 14, 23 and 24 were rejected under 35 U.S.C. § 103(a) as being obvious over Rose in view of Donnelly. Each of these claims, however, is directly or indirectly dependent up independent claims 1, 9, 15 and 19 and includes all of the limitations of the corresponding base claim. Dependent claims 4-5, 7, 12, 14, 17, 21 and 23-24 are therefore allowable for at least the same reasons given above.

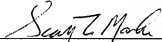
### CONCLUSION

Upon entry of this paper, claims 1-26 are pending in the present patent application. These pending claims are believed to be in condition for allowance. Reconsideration and prompt passage of the application to allowance is respectfully solicited.

No fee is believed to be necessary in connection with this response. Should an extension of time, or any fee be required, the applicant requests that this action be undertaken and our Deposit Account No. 06-0029 be charged for the fee.

Respectfully Submitted,  
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